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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,952	12/03/2001	Daniel Bohm	A34842 (071308.0276)	2958

7590 12/16/2004

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EXAMINER

KNOLL, CLIFFORD H

ART UNIT	PAPER NUMBER
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2112

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/005,952

Applicant(s)

BOHM ET AL.

Examiner

Clifford H Knoll

Art Unit

2112

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached response.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

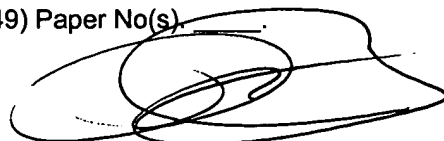
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☒ Other: attachment: Response to Arguments



MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Response to Arguments

Applicant's arguments filed 11/30/04 have been fully considered but they are not persuasive.

Applicant argues that Angelo "does not state anything about software that does have idle support and software that does not" and distinguishes the invention as one that "applies to systems running these two kinds of software applications" (p. 2); however the suspend state disclosed by Angelo is considered by the Examiner to be an idle state. The recitation does not support a narrower interpretation that might distinguish over Angelo. Angelo discloses "registered programs" (col. 13, lines 2-6) that must be executed before going into an idle state; which are considered to lack idle state support inasmuch as they must be executed prior to this transition to idle state as claimed. As for drivers with idle state support, the disclosure previously cited and cited supra teach the preparation of the idle mode of Angelo's system management driver wherein "SMM memory 200 and normal memory can be strictly separated" (col. 7, lines 65-67).

Applicant further argues that Angelo does not disclose "software that supports an idle state. Thus, Angelo does not and cannot teach to put such software into an idle state" (p. 2); however as treated supra, Angelo discloses an idle state for the SMM driver. The recitation is inadequate to support an interpretation of "idle state" that distinguishes it from the idle state of Angelo.

Art Unit: 2112

Applicant further argues that Angelo does not disclose “step (g)” or “how such a wake up procedure will be executed”; however a return from a suspend operation is implicit in the very notion of suspending an operation. Angelo expressly discloses this feature, for example, by noting the use of a switch “to turn on the computer system S from a power down condition” (col. 10, lines 9-10).

Applicant further argues that since Angelo “does not disclose how such a wake up procedure will be executed... thus the following steps of ‘(h),... (j),... and (k)...’ are completely lacking in Angelo” (p. 2); however, such a cause and effect assume a sequential limitation on the steps of the method that has not been provided in recitation. As was noted in the previous Office Action, no sequential limitation can be inferred from the claims. The mere fact that in Angelo drivers are active, that services are activated, and that services without idle state support are running, implies or clearly teaches these features. Therefore, these steps are not necessarily a part of a power up routine.

Therefore Applicant’s further argument that Angelo does not suggest “how a power-up routine is implemented” and that “upon a power down request the programs are simply terminated” (p. 3) are, as an attempt to distinguish from Angelo, unpersuasive, because the recitation fails to support this distinction.

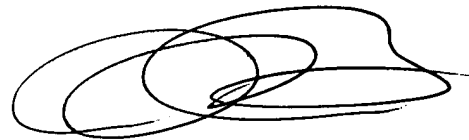
Art Unit: 2112

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clifford H Knoll whose telephone number is 571-272-3636. The examiner can normally be reached on M-F 0630-1500.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark H Rinehart can be reached on 571-272-3632. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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